

(2021-143)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

RUTH YAMILETH LABOY

§

§

VS.

§

§

CIVIL ACTION NO. _____

JUAN MANUEL GRIMALDO MARTINEZ

§

AND AUTO TRANSPORTES

§

FRONTERIZOS DE CARGA SA DE CV

§

JURY DEMANDED

DEFENDANT AUTO TRANSPORTES FRONTERIZOS
DE CARGA SA DE CV'S NOTICE OF REMOVAL

Defendant, AUTO TRANSPORTES FRONTERIZOS DE CARGA SA DE CV, files this Notice of Removal to the United States District Court for the Southern District of Texas, Laredo Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, based on the following facts, which show that this case is properly removable:

I.

PROCEDURAL BACKGROUND

1. On June 23, 2021, Plaintiff, RUTH YAMILETH LABOY, commenced an action in the County Court at Law No. 1 of Webb County, Texas, Cause No. 2021CVA001182C1, styled ***Ruth Yamileth Laboy v. Juan Manuel Grimaldo Martinez and Auto Transportes Fronterizos de Carga SA de CV***. Plaintiff claims Defendants are liable to her under a negligence theory for personal injuries she allegedly sustained in the subject motor vehicle accident.

2. Plaintiff is now, and was at the time of removal, and at the time of the filing of the instant lawsuit, a U.S. Citizen domiciled and/or permanently residing in Texas.

3. On or about August 2, 2021, Defendant, AUTO TRANSPORTES FRONTERIZOS DE CARGA SA DE CV (hereinafter “Defendant Transportes Fronterizos”), was served with a copy of Plaintiff’s Original Petition (hereinafter “the Petition”).

4. In accordance with 28 U.S.C. § 1446(b), Defendant Transportes Fronterizos’ Notice of Removal is timely as it is filed within 30 days of actual or constructive receipt of Plaintiff’s Original Petition. Further, Defendant, JUAN MANUEL GRIMALDO MARTINEZ, joins in this Notice and consents to the removal of this case to federal court.

5. At the time suit was filed, and continuing to the present, this Court had, and still has, original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1). There is complete diversity of citizenship between Plaintiff and the Defendants. There are no statutory bars against removal to the United States District Court, Southern District of Texas.

6. In addition, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.¹

II.

PARTIES

7. Plaintiff is now, and was at the time of removal, and at the time of the filing of the instant lawsuit, a citizen of the United States and domiciled in and/or a permanent resident of Texas. Specifically, Plaintiff alleges to be a resident of Laredo, Webb County, Texas.²

8. Defendant, Juan Manuel Grimaldo Martinez, is now, and was at the time of removal, and at the time of the filing of the instant lawsuit, a natural person and citizen of Mexico.

¹ See Exhibit A, Plaintiff’s Original Petition, pgs. 1-2, Section II.

² *Id.* at pg. 2, Section III.

9. Defendant, Auto Transportes Fronterizos de Carga SA de CV, is now, and was at the time of removal, and at the time of the filing of the instant lawsuit, a Mexican corporation organized under the laws of Mexico.

III.

BASIS FOR REMOVAL: DIVERSITY JURISDICTION

A. Diversity Jurisdiction Exists.

10. Removal is proper because this lawsuit involves a controversy between citizens of different states. Specifically, Plaintiff is now, and was at the time of removal, and at the time of the filing of the instant lawsuit, a citizen of the United States and domiciliary of Texas.

11. In contrast, Defendant, Juan Manuel Grimaldo Martinez, is now, and was at the time of removal, and at the time of the filing of the instant lawsuit, a natural person and citizen of Mexico. Additionally, Defendant, Auto Transportes Fronterizos de Carga SA de CV, is now, and was at the time of removal, and at the time of the filing of the instant lawsuit, a Mexican corporation.

IV.

COMPLIANCE WITH REMOVAL PROCEDURES

12. A copy of this Notice of Removal was filed with the clerk of the State Court in which the original action was filed, as required by law.

13. Pursuant to Local Rules 3 and 81, this Notice of Removal is accompanied by a Civil Cover Sheet and copies of the following attached documents:

- a. Pleadings asserting causes of action (Exhibit A);
- b. All orders signed by the State Judge (Exhibit B);
- c. The state court docket sheet at the time of removal (Exhibit C);
- d. An index of matters being filed (Exhibit D); and
- e. A list of all attorneys, including their addresses, telephone numbers, and the parties they represent (Exhibit E).

V.

PRAYER

For these reasons, Defendant, AUTO TRANSPORTES FRONTERIZOS DE CARGA SA DE CV, requests that the Court take jurisdiction of this action to its conclusion and final judgment, to the exclusion of any further proceedings in State Court, in accordance with law.

Respectfully submitted,

/s/ Anthony B. James

Anthony B. James, *Attorney-in-Charge*

State Bar No. 10537300

Federal I.D. No. 3785

Email: ajames@hodgejames.com

Marco A. Jilpas

State Bar No. 24071331

Federal I.D. No. 2983324

Email: mjilpas@hodgejames.com

HODGE JAMES JILPAS & NICHOLS

Attorneys at Law

P.O. Box 534329 (78553)

1617 E. Tyler, Suite A

Harlingen, Texas 78550

Telephone: (956) 425-7400

Facsimile: (956) 425-7707

Attorneys for Defendants,

**JUAN MANUEL GRIMALDO MARTINEZ and
AUTO TRANSPORTES FRONTERIZOS DE
CARGA SA DE CV**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing, Defendant Auto Transportes Fronterizos de Carga SA de CV's Notice of Removal, has been served on the 18th day of August, 2021 to all attorneys of record via E-Service as follows:

Via E-Service: scottm@davislaw.com

R. Scott Mellen

Davis Law Firm

10500 Heritage Blvd. Ste. 102

San Antonio, Texas 78216

Attorney for Plaintiff

/s/ Anthony B. James

Anthony B. James